

Notice of Allowability**Application No.**

09/737,319

Examiner

Marie R. Yamnitzky

Applicant(s)

TOGUCHI ET AL.

Art Unit

1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to Applicant's amendment filed 30 November 2004.
2. The allowed claim(s) is/are 18.
3. The drawings filed on 14 December 2000 are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
7. IDENTIFYING INDICIA SUCH AS THE APPLICATION NUMBER (SEE 37 CFR 1.84(c)) SHOULD BE WRITTEN ON THE DRAWINGS IN THE FRONT (NOT THE BACK) OF EACH SHEET. REPLACEMENT SHEET(S) SHOULD BE LABELED AS SUCH IN THE HEADER ACCORDING TO 37 CFR 1.121(d).
7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date _____
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

Applicant's amendment after final rejection, filed November 30, 2004, cancels claims 1-5, 7-12, 14-17 and 19-24. In the amendment, claim 18 is indicated as "currently amended" and includes strikethrough, indicating deleted text. However, the examiner notes that all of the text that is indicated as deleted by strikethrough was deleted by a prior amendment. Claim 18 as presented in the November 30th amendment is the same as claim 18 as presented in the amendment filed July 12, 2004.

Applicant presents arguments with respect to various prior art rejections. The examiner notes that each of applicant's statements of a rejection under 35 U.S.C. 103 (a) includes an incorrect list of rejected claims. For example, in the final rejection mailed August 30, 2004, claims 1, 3-5, 14, 15, 19 and 21 were rejected as unpatentable over Tamano et al. (US 6,329,084 B1) whereas applicant's arguments filed November 30, 2004 indicate that this rejection was applied to claims 1, 3-5 and 14-16. Regardless, applicant's arguments are moot since all rejected claims have been cancelled.

With respect to applicant's comments in the section headed "***Claim Comments***" (pages 4-5 of the November 30th communication), the examiner notes that "p. 9, ¶ 13 of Office Action" refers to the Office action mailed March 02, 2004. The noted corrections to claim 18 were made in Applicant's amendment filed July 12, 2004.

Claim 18 is the sole pending claim, and stands allowed.

Any inquiry concerning this communication should be directed to Marie R. Yamnitzky at telephone number (571) 272-1531. The examiner works a flexible schedule but can generally be reached at this number from 6:30 a.m. to 4:00 p.m. Monday, Tuesday, Thursday and Friday, and every other Wednesday from 6:30 a.m. to 3:00 p.m.

The current fax number for Art Unit 1774 is (703) 872-9306 for all official faxes.
(Unofficial faxes to be sent directly to examiner Yamnitzky can be sent to (571) 273-1531.)

MRY
December 07, 2004

Marie R. Yamnitzky

MARIE YAMNITZKY
PRIMARY EXAMINER

1774